

Rules and Regulations

Federal Register

Vol. 57, No. 208

Tuesday, October 27, 1992

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2635

RIN 3209-AA04

Standards of Ethical Conduct for Employees of the Executive Branch; Correction

AGENCY: Office of Government Ethics.

ACTION: Final rule; correction.

SUMMARY: This document corrects five minor typographical errors in the regulatory text of the final rule on executive agency ethics training programs, which was published by the Office of Government Ethics on Friday, August 7, 1992 (57 FR 35006-35067).

EFFECTIVE DATE: August 7, 1992.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, telephone/FTS (202) 523-5757, FAX (202) 523-6325.

Approved: October 20, 1992.

Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, the Office of Government Ethics is correcting the August 7, 1992 publication of the final rule on Standards of Ethical Conduct for Employees of the Executive Branch, which was the subject of FR Doc. 92-16070, as follows:

§ 2635.202 [Corrected]

1. On page 35045 of the regulatory text, in the first column, in paragraph (c)(4)(iii) of § 2635.202, in the last line of the paragraph, the final punctuation mark "." is corrected to read "; or".

§ 2635.204 [Corrected]

2. On page 35049 of the regulatory text, in the first column, in paragraph (i)(1) of § 2635.204, in the last line of the

paragraph, the final punctuation mark "." is corrected to read ";".

§ 2635.801 [Corrected]

3. On page 35062 of the regulatory text, in the first column, in paragraph (d)(6) of § 2635.801, in the last line of the paragraph, correct the abbreviation "seq" by adding a "." at the end and before the final punctuation mark ";".

§ 2635.807 [Corrected]

4. On page 35063 of the regulatory text, in the second column, in the introductory text of paragraph (a) of § 2635.807, in the third line of the paragraph, the word "the" is corrected to read "this".

§ 2635.808 [Corrected]

5. On page 35066 of the regulatory text, in the second column, in paragraph (c)(1)(ii) of § 2635.808, in the last line of the paragraph, the final punctuation mark "." is corrected to read ";".

[FR Doc. 92-25875 Filed 10-26-92; 8:45 am]

BILLING CODE 6345-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

[Docket No. FV-92-002FR]

Avocados Grown in South Florida; Finalize Maturity Requirement Revisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, with appropriate corrections, an interim final rule which revised maturity requirements in effect on a continuous basis for avocados grown in Florida. The interim final rule made calendar date adjustments in the shipping schedules for varieties of avocados to synchronize them with the 1992 and 1993 calendar years. The maturity requirements are designed to ensure that only mature fruit is shipped to the fresh market, thereby improving grower returns and promoting orderly marketing conditions.

EFFECTIVE DATE: November 27, 1992.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing

Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-5331.

SUPPLEMENTARY INFORMATION: This final rule is issued under the Marketing Agreement and Marketing Order No. 915, both as amended [7 CFR part 915], regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the Act.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608(c)(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of

business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 40 handlers of Florida avocados subject to regulation under Marketing Order No. 915, and about 300 avocado producers in the production area (South Florida). Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. The majority of the avocado handlers and producers may be classified as small entities.

The Avocado Administrative Committee (committee), which administers the order locally, unanimously recommended maturity revisions. The committee meets prior to and during each season to review the handling requirements for avocados, effective on a continuous basis. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information and determines whether modification, suspension, or termination of the handling requirements would tend to effectuate the declared policy of the Act.

The interim final rule was issued on June 22, 1992, and published in the *Federal Register* [57 FR 28587, June 26, 1992], with an effective date of June 26, 1992, and a 30-day comment period ending July 27, 1992. No comments were received. However, the Department identified several typographical and printing errors in that interim final rule as published, which are being corrected in this final rule as follows: (1) For the Arue variety the minimum diameter of 3 $\frac{1}{16}$ inches established for the shipping period ending the 4th Sunday of May is changed to the shipping period ending the 5th Monday of June; (2) for the Miguel(P) variety the minimum diameter of 3 $\frac{1}{16}$ inches for the shipping period ending the 4th Monday of August is changed to 3 $\frac{1}{8}$ inches; (3) for the Beta variety the minimum diameter of 3 $\frac{1}{16}$ inches for the shipping period ending the 2nd Sunday of August is changed to 3 $\frac{1}{8}$ inches, and the minimum diameter of

3 $\frac{1}{8}$ inches for the shipping period ending the 5th Monday of August is changed to 3 $\frac{1}{16}$ inches. These corrections reflect the original recommendations of the committee.

The interim final rule revised the maturity requirements specified in Table 1 of paragraph (a)(2) of § 915.322 [7 CFR part 915], by revising the calendar dates in the shipping schedules for different avocado varieties specified in that section to synchronize those dates with the 1992 and 1993 calendar years.

Maturity requirements for Florida avocados are in effect on a continuous basis. Such requirements specify minimum weights and diameters for specific shipping periods for some 60 varieties of avocados and color specifications for those varieties which turn red or purple when mature. The maturity requirements for the various varieties of avocados are different, because each variety has different characteristics.

These maturity requirements are designed to prevent shipments of immature avocados to the fresh market, especially during the early part of the harvest season for each variety. Providing fresh markets with mature fruit is an important aspect of creating consumer satisfaction and is in the interest of both producers and consumers.

The Florida avocado shipping season usually begins about mid-May with light shipments of early varieties and it continues into the following March or April, with heaviest shipments occurring from July through December.

A minimum grade requirement of U.S. No. 2, currently in effect on a continuous basis for Florida avocados under § 915.306 [7 CFR part 915], remains in effect unchanged by this action.

Import requirements concerning minimum size (weight and diameter) and skin color maturity requirements specified in § 944.31 [7 CFR 944.31] for imported avocados were suspended May 13, 1991 [56 FR 23009, May 20, 1991]. Therefore this action will not impact imported avocados until the suspension is lifted.

Handlers may ship, exempt from the minimum grade, size, and maturity requirements effective under the marketing order, up to 55 pounds of avocados during any one day under a minimum quantity provision, and up to 20 pounds of avocados as gift packs in individually addressed containers. Also, avocados utilized in commercial processing are not subject to the grade, size, and maturity requirements under the order.

This action reflects the committee's and the Department's appraisal of the need to maintain the revised maturity requirements for Florida avocados. The Department's view is that this action will have a beneficial impact on producers and handlers since it will continue to help ensure that only mature avocados are shipped to fresh markets. The committee considers that maturity requirements for Florida grown avocados are necessary to improve grower returns and promote orderly marketing conditions. Although compliance with these maturity requirements will affect costs to handlers, these costs will be offset by the benefits of providing the trade and consumers with mature avocados.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that finalizing the interim final rule, as published in the *Federal Register* [57 FR 28587, June 26, 1992], with the corrections herein specified, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

Note: This section will appear in the annual Code of Federal Regulations.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

1. The authority citation for 7 CFR part 915 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Accordingly, the interim final rule amending the provisions of § 915.322, which was published in the *Federal Register* [57 FR 28587, June 26, 1992], is adopted as a final rule with the following changes. In § 915.322, Table I in paragraph (a)(2) is amended by revising the following entries to read as follows:

§ 915.322 Florida avocado maturity regulation.

- (a) * * *
- (2) * * *

TABLE I

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
Arue	2nd Mon May	4th Sun May	16	
	4th Mon May	5th Mon June	14	3 1/8
Miguel (P)	2nd Mon July	4th Sun July	22	3 1/8
	4th Mon July	2nd Sun Aug	20	3 1/8
	2nd Mon Aug	4th Mon Aug	18	3 1/8
Beta	1st Mon Aug	2nd Sun Aug	18	3 1/8
	2nd Mon Aug	5th Mon Aug	16	3 1/8

Dated: October 20, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-25942 Filed 10-26-92; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

RIN 0960-AC38

Supplemental Security Income for the Aged, Blind, and Disabled; Parent-to-Child Deeming

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: Under the Supplemental Security Income (SSI) regulations, three formulas are used to calculate the amount of income deemed to a child from his or her ineligible parent(s) when they are living together. This final rule eliminates the formula used when the parent(s) has only earned income and the formula used when the parent(s) has only unearned income. Instead, this rule requires that only the method used in cases where the parent(s) has both earned and unearned income be used to calculate the amount of parental income to be deemed. Using a single method to calculate the parental income to be deemed will eliminate certain anomalies which sometimes occurred when the regulations required that more than one of the three computational methods be applied in the same case and when there was a change in the type of income received (e.g., an increase in unearned income), resulting in a change in computation but no correlating change in the deemed amount.

EFFECTIVE DATE: This final rule is effective November 2, 1992.

FOR FURTHER INFORMATION CONTACT: Irving Darrow, Esq., Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (410) 966-0512.

SUPPLEMENTARY INFORMATION: This rule was published as a Notice of Proposed Rulemaking in the Federal Register on July 8, 1991 (56 FR 30884). A 60-day comment period was provided. Comments received in response to the Notice of Proposed Rulemaking are discussed under the heading "Discussion of Comments".

Section 1614(f)(2) of the Social Security Act (the Act), as amended (42 U.S.C. 1382c(f)(2)) which states for purposes of determining eligibility for and the amount of benefits for any individual who is a child under age 18, such individual's income and resources shall be deemed to include any income and resources of a parent of such individual (or the spouse of such a parent) who is living in the same household as such individual, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

This provision of the law is intended to recognize the obligation of a parent to support a minor child. The Secretary of Health and Human Services (the Secretary) has been given broad discretion under section 1614(f)(2) of the Act to set forth rules to determine what portion of a parent's income and resources may be deemed to a child applying for or eligible for benefits under the SSI program.

In implementing section 1614(f)(2), the Secretary has set forth the rules in 20 CFR 416.1165 for determining how we deem income to an eligible child from an ineligible parent(s). Under the regulation at § 416.1165(a), we first determine the amount of earned and unearned income of the ineligible parent(s). Next,

according to the rules in § 416.1165(b), we deduct an allocation for each ineligible child in the household. We also deduct an allocation for eligible aliens who have been sponsored by and have income deemed from the ineligible parent(s) (§ 416.1165(c)). Such allocations are deducted first from the unearned income of the parent(s) and then, if any allocation remains, from the earned income of the parent(s). Finally, we determine the amount to be deducted for the ineligible parent(s) using one of the formulas in § 416.1165(d). The formula in § 416.1165(d)(1) is applicable where all parental income is earned. The formula in § 416.1165(d)(2) is applicable where all parental income is unearned. The formula in § 416.1165(d)(3) applies where the parental income is both earned and unearned. We use the formula which reflects the type of income which the parent(s) has after exclusions under section 416.1161(a) have been applied and allocations have been deducted for any ineligible children in the household and/or any eligible aliens sponsored by the parent(s).

The use of these three formulas has resulted in the following anomalies:

Anomaly 1: We sometimes deem less income to the child in situations where parental unearned income has increased or has just begun to be received while earned income has not changed or has increased.

Two factors are involved. First, in the earned income only computation (§ 416.1165(d)(1)), after deducting \$85 (the standard general and earned income exclusions) plus twice the applicable Federal benefit rate (FBR), we count 100 percent of the remaining earned income when computing a child's deemed income. However, in the earned and unearned income computation (§ 416.1165(d)(3)), after deducting any of the \$20 general income exclusion not